

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division

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In re:  
MINOR FAMILY HOTELS, LLC  
  
Debtor

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Case No. 10-62543  
Converted Chapter 7

**CHAPTER 7 TRUSTEE'S MOTION FOR  
APPROVAL OF COMPROMISE AND SETTLEMENT;  
AND NOTICE OF HEARING**

TO THE HONORABLE REBECCA B. CONNELLY, U. S. BANKRUPTCY JUDGE:

**MOTION**

COMES NOW, W. Stephen Scott, the duly-qualified and acting Chapter 7 Trustee herein (the "Trustee"), by counsel, and pursuant to Fed. Rule of Bankr. P. 9019(a) files this motion (the "Motion") seeking approval of the settlement of claims asserted by the Debtor against Clancy & Theys Construction Company ("CTCC"), in a state court action currently pending in the Circuit Court for the City of Charlottesville, Virginia (Case No. CL2012-234), seeking damages from CTCC (the "State Court Action"). In support hereof, the Trustee represents the following:

1. On September 1, 2010 (the "Petition Date"), the Debtor filed its bankruptcy proceeding under chapter 11 of the Bankruptcy Code, which proceeding was converted to chapter 7 case on September 18, 2013 (the "Conversion Date").
2. The Trustee was duly appointed as Chapter 7 Trustee on the Conversion Date to administer the pending chapter 7 proceeding.
3. The Trustee and CTCC have reached a settlement of the State Court Action, subject to Bankruptcy Court approval, the terms of which are memorialized in the attached draft

Settlement Agreement. Among other terms and conditions, CTCC will pay the Trustee the sum of \$10,000.00 in full satisfaction of the State Court Action and any other claim, demand, action or cause of action that the Debtor or the Trustee has asserted or might assert at any time against CTCC ("the Settlement").

4. The Trustee believes the proposed Settlement is appropriate in this instance in light of, among other things, the possible delay in the final administration of the bankruptcy estate, the uncertainty of the result of State Court Action, and that no party in interest shall suffer prejudice or injury as a result of the Settlement. Accordingly, by virtue of the foregoing it is respectfully submitted that the Settlement is in the best interests of the Estate and all parties in interest.

#### NOTICE OF HEARING

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in the bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the court to grant this Motion pursuant upon the terms set forth herein, or if you want the court to consider your views on the motion, then on or before 7 DAYS BEFORE THE SCHEDULED HEARING, you or your attorney must:

1. File with the court a written response to the sale at:  
Clerk, U. S. Bankruptcy Court  
1101 Court Street, Room 166  
Lynchburg, VA 24504
2. If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.
3. You must also mail a copy to:

Office of the U. S. Trustee  
First Campbell Square Building  
210 First Street, Suite 505  
Roanoke, VA 24011

W. Stephen Scott, Esquire  
P. O. Box 2737  
418 E. Water Street  
Charlottesville, VA 22902

4. **Attend the hearing scheduled to be held on Monday, March 17, 2014, at 2:00 P.M., at the Bankruptcy Courtroom, U. S. Courthouse and Federal Building, 255 West Main Street, Charlottesville, VA.**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion, and may enter an order granting that relief.

WHEREFORE, the Trustee respectfully requests, after notice and hearing, this Court enter an Order granting the Motion and approving the Settlement in accordance with the terms set forth herein; and such other and further relief as the Court deems just and proper.

Dated: February 3, 2014

Respectfully submitted,  
W. STEPHEN SCOTT, TRUSTEE  
By Counsel

/s/ W. Stephen Scott  
W. Stephen Scott, Esquire (VSB#14301)  
Scott Kroner, PLC  
P. O. Box 2737; 418 E. Water Street  
Charlottesville, VA 22902  
(434) 296-2161  
[wscott@scottkroner.com](mailto:wscott@scottkroner.com)  
Attorney for the Trustee

#### CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion and Notice was served electronically or via U. S. Postal Service, first class, postage prepaid, this 3<sup>rd</sup> day of February, 2014 to the Debtor, to the Attorney for Debtor, and to all creditors and parties in interest as set forth on the mailing matrix attached to the original of this Notice filed with the Court.

/s/ W. Stephen Scott

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W. Stephen Scott, Trustee

## SETTLEMENT AGREEMENT

**This settlement agreement** (this “*Settlement Agreement*”) is made as of January 31, 2014 by and between W. Stephen Scott, Chapter 7 Trustee (the “*Trustee*”) for Minor Family Hotels, LLC (“*MFH*” or the “*Debtor*”) in Case No. 10-62543 pending in the United States Bankruptcy Court for the Western District of Virginia and Clancy & Theys Construction Company. (“*Clancy & Theys*” and collectively with the Trustee, the “*Parties*”).

### RECITALS

A. The Debtor filed a voluntary for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) petition on September 1, 2010 (the “*Petition Date*”) in the United States Bankruptcy Court for the Western District of Virginia (the “*Bankruptcy Court*”), administered under Case number 10-62543 (the “*Bankruptcy Case*”). The Bankruptcy Case was converted from a case under Chapter 11 of the Bankruptcy Code to a case under Chapter 7 of the Bankruptcy Code on September 18, 2013 (the “Conversion Date”) and the Trustee was appointed to serve as Chapter 7 Trustee in the Bankruptcy Case.

B. Prior to the Conversion Date, the Debtor filed a cause of action against Clancy & Theys in the Circuit Court for the City of Charlottesville, Virginia (Case No.: CL2012-234) (the “*State Court Action*”), seeking damages from Clancy & Theys.

C. Clancy & Theys has denied any liability of any kind to the Debtor or to the Debtor’s estate in connection with the State Court Action or otherwise.

D. The Parties have exchanged information, negotiated with one another, and now desire to resolve all matters between them, including the State Court Action against Clancy & Theys, upon the terms and conditions set forth below.

### TERMS OF AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby stipulated, consented to, and agreed by and between the Parties as follows:

1. Clancy & Theys shall deliver to the Trustee the sum of \$10,000.00 (the "*Settlement Sum*"), in full satisfaction of the State Court Action and any other claim, demand, action or cause of action that the MFH or the Trustee has asserted or might assert at any time against Clancy & Theys.

2. The Settlement Sum shall be paid by check, issued by Clancy & Theys and delivered to the Trustee, so that the Trustee actually receives it within ten (10) calendar days after the execution of this Settlement Agreement as follows:

Payable to: W. Stephen Scott, Chapter 7 Trustee for Minor Family Hotels, LLC

Delivered to: Scott | Kroner, PLC  
418 E. Water St.  
Charlottesville, VA 22902

3. Upon the Effective Date of this Settlement Agreement and subject to the provisions of this Settlement Agreement, the Trustee shall be deemed to have released, waived, and discharged Clancy & Theys and all of its officers, directors, employees, agents and representatives from any and all liabilities, obligations, actions, suits, judgments, claims, causes of action and demands, known or unknown, whatsoever at law or in equity arising from, in connection with or related to the State Court Action and all other claims, demands, actions or causes of action that the MFH or Trustee has asserted or might assert at any time against Clancy & Theys.

4. The releases granted in this Settlement Agreement shall be effective upon entry of an order approving this Settlement Agreement in accordance with Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Effective Date").

5. The Trustee shall prepare a motion seeking approval of this Settlement Agreement within five days of the delivery of the Settlement Agreement to the Trustee. The Trustee shall endorse and promptly file an Order dismissing the State Court Action with prejudice following the Effective Date.

6. Except as otherwise provided in this Settlement Agreement, upon execution of this Settlement Agreement and subject to the provisions of this Settlement Agreement, Clancy & Theys shall be deemed to have released, waived and discharged the Debtor, the Debtor's estate and the Trustee from any and all liabilities, obligations, actions, suits, judgments, claims, causes of action and demands, known or unknown, whatsoever at law or in equity and any claim under 11 U.S.C. § 502(h) arising as a consequence of the payment of the Settlement Sum or any other claims it may have against the Debtor or the Debtor's Estate, and Clancy & Theys shall withdraw Clancy & Theys' filed proof of an unsecured claim, as amended, totaling \$472,884.22 in the Bankruptcy Case [Claim No. 18-2].

7. Except as otherwise provided in this Settlement Agreement, if the Trustee is compelled by an order of a court of competent jurisdiction or required for any other reason to return, disgorge, or repay any portion of the Settlement Sum, or if the payment of any portion of the Settlement Sum is avoided by Clancy & Theys or any person or entity acting on behalf of Clancy & Theys or its respective estate, then the releases given by each party to this Settlement Agreement shall be deemed ineffective and the Complaint and proof of claim shall be reinstated without further order of the Bankruptcy Court, subject to credit for the

payment made pursuant to paragraph 1 of this Settlement Agreement to the extent allowed by law.

8. The undersigned individuals represent and warrant that they have full authority to execute this Settlement Agreement on behalf of the respective Parties and have obtained all necessary approvals from those Parties.

9. This Settlement Agreement represents the entire agreement between the Parties. This Settlement Agreement is the resolution of disputed claims and nothing in this Settlement Agreement shall be deemed an admission against either party.

10. This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile and electronically-transmitted signatures shall be given the same force and effect as original signatures. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties' respective assigns and successors, including trustees and receivers. Each party shall bear its own costs and expenses associated with this matter.

**W. Stephen Scott, Chapter 7 Trustee**

**Clancy & Theys Construction  
Company**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

24598587\_1

Capital Interior Contractors, Inc.  
c/o Barry A. Hackney, Reg. Agent  
P. O. Box 500  
Richmond, VA 23218-0500

Century Concrete, Inc.  
c/o Dennis T. Lewandowski, Esq.  
PO Box 3037  
Norfolk, VA 23514-3037

Charlottesville Parking Center, Inc.  
c/o H. Slayton Dabney, Jr., Esq.  
1185 Avenue of the Americas  
New York, NY 10036-2601

City of Charlottesville, Virginia  
605 East Main Street  
P.O. Box 911  
Charlottesville, VA 22902-0911

Clancy & Theys Construction Company  
c/o Steven G. Test, Esq.  
222 Central Park Ave.  
Suite 1700  
Virginia Beach, VA 23462-3035

Omni Hotels Management Corp.  
c/o Lynn L. Tavenner, Esq.  
20 North Eighth Street, Second Floor  
Richmond, VA 23219-3302

Pioneer Bank  
C/o Reed & Reed, P.C.  
P.O. Box 766  
Luray, VA 22835-0766

R.D. Jones & Associates, Inc.  
c/o Lenhart Obenshain, PC  
100 10th Street NE  
Suite 300  
Charlottesville, VA 22902-5481

Southern Air, Incorporated  
Ronald G. Kidd, R/A  
2655 Lakeside Dr.  
P. O. Box 4205  
Lynchburg, VA 24502-0205

Specialty Finance Group, LLC  
3284 Northside Parkway NW  
Atlanta, GA 30327-2280

Trane U.S., Inc.  
c/o Lawrence S. Jacobs, Esq.  
8300 Greensboro Drive, Suite 800  
McLean, VA 22102-3661

UStTrustee  
Office of the United States Trustee  
210 First Street, Suite 505  
Roanoke, VA 24011-1620

Woods Rogers PLC  
P.O. Box 14125  
Roanoke, VA 24038-4125

A & E Reprographics Inc  
100 Aragona Blvd, Suite 103  
Virginia Beach, VA 23462-2752

A.G. Dillard, Inc.  
295 Memory Lane  
Troy, VA 22974-3707

A.G. Dillard, Inc.  
c/o David W. Thomas  
Michie Hamlett PLLC  
500 Court Square, Suite 300  
Charlottesville, VA 22902-5146

Aegis Technologies Inc.  
23475 Rock Haven Way #125  
Sterling, VA 20166-4444

Akerman Senterfitt LLP  
Attn: Don Gavin  
8100 Boone Blvd., Suite 630  
Vienna, VA 22182-2649

Alex Judson  
953 W. Willow St., Apt. 2B  
Chicago, IL 60614-7357

Allen Guthrie & Thomas  
P.O. Box 3394  
Charleston, WV 25333-3394

American Arbitration Association  
Attn: Adriana Armendariz, Case Manager  
2200 Century Parkway Ste 300  
Atlanta, GA 30345-3126

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P.O. Box 2248  
Charlottesville, VA 22902-2248

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4314 Pablo Oaks Court  
Jacksonville, FL 32224-9631

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U.S. Department Of Justice  
950 Pennsylvania Ave, NW  
Washington, DC 20530-0001

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Three Ravinia Drive, Suite 230  
Atlanta, GA 30346-2159

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c/o Gentry Locke Rakes & Moore, LLP  
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Roanoke, VA 24011-2121

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22473 Timberlake Road  
Lynchburg, VA 24502-7302

Bat Masonry Company, Incorporated  
C/O Gentry Lock Rakes & Moore, LLP  
10 Franklin Road SE., South 800  
Roanoke, VA 24011-2133



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Marlton, NJ 08053-4160

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Boyle, Bain, Reback & Slayton  
420 Park Street  
Charlottesville, VA 22902-4762

C. L. Harrison  
Construction Administrative Services  
P.O. Box 5837  
Charlottesville, VA 22905-5837

CP Document Technology  
P.O. Box 64-457  
Lost Angeles, CA 90064-0457

CT Corp.  
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Carol Stream, IL 60197-4349

Capital Interior Contractors  
C/O Hirschler Fleischer  
PO Box 500  
Richmond, VA 23218-0500

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3201-A Rosedale Avenue  
Richmond, VA 23230-4227

Card Services  
P.O. Box 569100  
Dallas, TX 75356-9100

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P.O. Box 262  
Charlottesville, VA 22902-0262

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303 Grande Court  
Richmond, VA 23229-7064

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City Attorney  
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Office of the City Attorney  
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Charottesvile, VA 22902-0911

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Charlottesville, VA 22902-0591

City of Charlottesville (Rent)  
P.O. Box 911  
Charlottesville, VA 22902-0911

City of Charlottesville Treasurer  
P.O. Box 2854  
Charlottesville, VA 22902-2854

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United States Attorney's Office  
310 1st St., SW, Rm 906  
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Clancy & Theys Construction Company  
C/O Williams Mullen, A Professional Co.  
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San Anselmo, CA 94960-1933

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Capistrano Beach, CA 92624-1163

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14026 Thunderbolt Place, Suite 100  
Chantilly, VA 20151-3296

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Equassure, Inc.  
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Evolve Discovery  
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90 Front Street  
Exeter, NH 03833-2764

FF&E Logistics  
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19 S. 2nd Street  
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C/O Minor Ventures  
3810 Washington Street  
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Halsey Minor  
619 Trendon Avenue  
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Harrison County Bank  
c/o Booth & McCarthy  
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Bridgeport, WV 26330-4669

Harrison County Bank  
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Lost Creek, WV 26385-0098

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Charlottesville, VA 22902-5239

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Next Step Design, Inc.  
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Washington, DC 20036-4345

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Loveland, OH 45140-7906

Ohio Casualty Insurance Company  
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Keene, NH

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North Garden, VA 22959-1613

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Irving, TX 75062-3988

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Charlottesville, VA 22901-1691

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Stanley, VA 22851-0010

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P.O. Box 3100  
Tallahassee, FL 32315-3100

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Baltimore, MD 21202-3341

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609 East Lockwood Avenue, Suite 201  
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Martinsville, VA 24114-1224

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San Francisco, CA 94105-1101

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417 Fifth Avenue, 5th Floor  
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C/O Hirshler Fleischer  
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Southern Environmental Services, Inc.  
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Specialty Finance Group, LLC  
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TRT Holdings, Inc.  
Michael G. Smith, General Counsel  
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Silver Spring, MD 20910-4033

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Assessor's Office  
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